

1 Ronald Lovitt, Bar No. 040921
 2 J. Thomas Hannan, Bar No. 039140
 3 Henry I. Bornstein, Bar No. 75885
 4 Terence F. Young, Bar No. 069943
 5 LOVITT & HANNAN, INC.
 6 900 Front Street, Suite 300
 7 San Francisco, California 94111
 8 Telephone: (415) 362-8769
 Facsimile: (415) 362-7528
 rl@lh-sf.com, jth@lh-sf.com, hib@lh-sf.com, tfylaw@earthlink.net

Attorneys for Defendants K-M Industries
 Holding Co. Inc.; K-M Industries Holding Co.
 Inc. ESOP Plan Committee; and CIG ESOP
 Plan Committee

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

12 THOMAS FERNANDEZ, LORA SMITH 13 and TOSHA THOMAS, individually and on 14 behalf of a class of all others similarly situated, 15 v. 16 K-M INDUSTRIES HOLDING CO., INC., <i>et al.</i> , 17 Defendants.) Case No. C06-07339 CW) [PROPOSED]) ORDER GRANTING DEFENDANTS) K-M INDUSTRIES HOLDING CO.,) INC., K-M INDUSTRIES HOLDING) CO. INC. ESOP PLAN COMMITTEE) AND CIG ESOP PLAN) COMMITTEE'S ADMINISTRATIVE) MOTION TO FILE COMBINED) REPLY UNDER SEAL) (Docket No. ____)
--	--

20 Defendants K-M Industries Holding Co., Inc., K-M Industries Holding Co., Inc. ESOP Plan
 21 Committee and CIG ESOP Plan Committee ("KMH") move for leave to file under seal portions of
 22 defendants' combined reply brief in support defendants' motions for summary judgment. The
 23 Combined Reply contains information that was held to be confidential in connection with
 24 defendants' administrative motions to seal certain documents when they filed their motions for
 25 summary judgment.

KMH's request is made in connection with a dispositive motion. Accordingly, the documents may not be filed under seal unless there is a "compelling interest" in doing so. Pintos v. Pac. Creditors Ass'n, 504 F.3d 792, 801-03 (9th Cir. 2007). This is because the public interest favors filing all court documents in the public record. A compelling interest cannot be established simply by showing that the document is subject to a protective order or is considered confidential by a party, but rather must be supported by a sworn declaration demonstrating with particularity the need to file each document or portion thereof under seal. See id.; Local Rule 79-5(a).

KMH has filed a declaration in support of its motion. In the declaration, KMH designates the following portions of the Combined Reply as either privileged or confidential, or both:

page 1:18-22;
 page 3, portion of footnote 6;
 pages 3-4, portions of footnote 7;
 page 5, portions of footnote 8;
 page 6:13.5-18.5;
 page 6, portions of footnote 9;
 pages 7:10.5-8:1; and
 page 7, portions of footnote 10.

KMH has established that these portions of the Combined Reply contain sensitive financial information or attorney-client communications for which a compelling interest exists to file under seal.

Accordingly, KMH's motion for leave to file under seal is GRANTED. The clerk shall file under seal Defendants' Combined Reply in Support of Defendants' Motions for Summary Judgment with the foregoing portions redacted.

IT IS SO ORDERED.

Dated: _____

Hon. Claudia Wilken
 United States District Judge
 Northern District of California